

Appl. No. 10/057,419  
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### REMARKS

In accordance with the forgoing, claims 18 and 28 have been amended.  
Claims 18-30 are pending and under consideration.

#### **I. Claim Rejections – 35 USC § 102**

Claims 18, 19, 21 and 23-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,733,313 to Barreras, Sr. et al. ("Barreras"). The rejection is respectfully traversed.

In dependent claim 18 of the present invention is directed to implantable medical device that includes a control circuit to control the operation of the implantable medical device and to obtain physiological data from a patient in which the implantable medical device is implanted, a communication circuit coupled to the control circuit to transmit the physiological data to an external device, a first power source positioned within the device and coupled to the control circuit to provide power to the control circuit, and a second power source positioned within the device and coupled to the communication circuit to provide power to the communication circuit.

Barreras teaches an implanted RF receiving unit 14 incorporating a back-up rechargeable power supply 44 and an implanted, electrically operated device (lead 19), and an external RF transmitting unit 12. The implanted receiver 14 receives therapy values, transmitted by the transmitter 12 via RF signals, which are decoded by a decoder 25 and stored in a memory 27 located in the receiving unit 14. Barreras does not teach an implantable medical device that includes both a control circuit and a communication circuit located in the implantable medical device that are powered by a first power source and a second power source, as set forth in independent claims 18 and 28. While Barreras teaches a control circuit 46 powered by a first power source (backup power supply 44), and even if, for the sake of discussion, the Examiner is correct in the assertion that "circuitry generally associated with receiving and transmitting data and power via link 61 and inductor inherently suggests that Barreras teaches a communication circuit, Barreras does not teach a second power source included within the

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implantable medical device. Rather, Barreras teaches the second power source being located within the external transmitting unit 12, and therefore outside the implantable medical device 14. Therefore, independent claim 18 and claims 2, 4, 6-15, 18, 19, 21 and 23 dependent thereon and independent claim 28 and claims 29 and 30 dependent thereon are patentably distinguishable from Barreras. Accordingly, withdrawal of the rejection is respectfully requested.

## **II. Rejections Under 35 USC § 103**

Claims 3, 5, 20 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barreras. The Examiner's rejection is respectfully traversed.

As stated above, Barreras does not teach or suggest an implantable medical device that includes both a control circuit and a communication circuit located in the implantable medical device that are powered by a first power source and a second power source, as set forth in independent claim 18. Therefore, independent claim 18 and claims 20 and 22 dependent thereon are patentably distinguishable from Barreras. Accordingly, withdrawal of the rejection is respectfully requested.

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### III. Conclusion


There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

CRAIG L. SCHMIDT ET AL.

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Date

  
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